

**MEMORANDUM OF AGREEMENT**  
**AMONG THE U.S. ARMY CORPS OF ENGINEERS,**  
**THE INDIANA STATE HISTORIC PRESERVATION OFFICER**  
**AND THE ADVISORY COUNCIL ON HISTORIC PRESERVATION**  
**REGARDING THE INDIANAPOLIS NORTH**  
**FLOOD DAMAGE REDUCTION PROJECT IN MARION COUNTY, INDIANA**

**WHEREAS**, the U.S. Army Corps of Engineers, herein referred to as the Corps, plans to construct the Phase 3B3 Section of the Indianapolis North Flood Damage Reduction Project in Marion County, Indiana, herein referred to as the "undertaking", pursuant to the Section 106 of the National Historic Preservation Act (as amended), 54 U.S.C. 306108; and

**WHEREAS**, the undertaking consists of a steel sheet pile I- wall measuring approximately 4,200 linear feet and gate structure. The wall will extend from the south end of the Riviera Club property, across the Citizens Water Canal (also known as the Indianapolis Central Canal) with a gate structure near the intersection of W. Westfield Boulevard and N. Capitol Avenue, then progress southward running parallel with W. Westfield Boulevard, across 52<sup>nd</sup> Street, and finally terminate on high ground belonging to Butler University (see attached figure); and

**WHEREAS**, the height of the wall above the ground surface will vary across its length from 8 inches to 6.5 feet depending on its contour elevation. The height of the wall will be greatest for its first 700 linear feet immediately southwest of the gate-structure near W. Westfield Boulevard, but will be sufficient to reach the required height of the required flood protection: 720 feet above mean sea level; and

**WHEREAS**, the Corps has defined the undertaking's area of potential effect (APE) as the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the use or character of a historic property determined eligible for, or listed on, the National Register of Historic Places (NRHP); and

**WHEREAS**, the adverse effects for this undertaking include the physical footprint of the project's construction (floodwall and canal gate structure), that would alter the historic setting, location, design, feeling, workmanship, or association of historic properties within the APE; and

**WHEREAS**, the Corps has determined that the undertaking has an adverse effect to the Holcomb Gardens segment of the Butler University Historic District and the Indianapolis Central Canal which are eligible for listing to the NRHP; and

**WHEREAS**, the Indiana State Historic Preservation Officer, herein referred to as the IN SHPO, has been consulted on these adverse effects to the above historic properties pursuant to 36 C.F.R.

part 800, the implementing regulations for Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

**WHEREAS**, the Corps has consulted with the city of Indianapolis regarding the adverse effects to the above historic properties and has invited them to sign this Memorandum of Agreement, herein referred to as the MOA, as an “invited signatory”; and

**WHEREAS**, the Corps has consulted with Butler University, Citizen’s Energy Group, Indiana Landmarks, the Canal Society of Indiana, the town of Rocky Ripple, the Butler-Tarkington Neighborhood Association, and approximately 18 residents within the APE and they have been invited to concur with this MOA; and

**WHEREAS** the Corps has invited other groups to participate in the consultation, but whom ultimately declined, including federally recognized tribes, the Central Indiana Community Foundation, the Greenway Foundation, the Indiana Archaeological Council, the Indiana Historic Society, the Riviera Club; and approximately 37 residents within the APE.

**WHEREAS**, in accordance with 36 C.F.R. § 800.6(a) (1), the Corps has notified the Advisory Council on Historic Preservation, herein referred to as ACHP, of its adverse effect determination with specified documentation, and

**WHEREAS**, the ACHP has chosen to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii), and

**WHEREAS**, a resolution of the adverse effects to these historic properties has been reached through consultation pursuant to 36 C.F.R. § 800.6(b)(2);

**NOW, THEREFORE**, the Corps, IN SHPO and the ACHP enter into this MOA pursuant to 36 C.F.R. § 800.6(c) and agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the adverse effect of the undertaking on these historic properties.

## **STIPULATIONS**

The Corps shall ensure that the following measures are carried out:

### **I. MITIGATION MEASURES**

The Corps shall ensure that the following negotiated measures are carried out to mitigate the adverse effects on the Holcomb Gardens portion of the Butler University Historic District and the Indianapolis Central Canal:

- A. A multi-use pedestrian trail along W. Westfield Boulevard between Butler University’s Holcomb Gardens and the pedestrian bridge just southwest of the N. Illinois Street will be integrated as part of the project to mitigate the adverse effects of the floodwall and maintain connectivity between Holcomb Gardens, the Indianapolis Central Canal and the

surrounding communities. The design for the trail will avoid existing trees and grading of the nearby Indianapolis Central Canal.

- B. To minimize the visual impact of the highest section of the I-wall, the northern 700 feet of the floodwall adjacent to the canal gate structure will be replaced with either a shorter I-wall, ranging in height from 2 to 4 feet tall, with temporary panels to be installed during flood events, or a passive floodwall system which will be stowed underground within the footprint of the wall alignment and deployed only during flood conditions. The selection between these two options will be on based the lowest cost estimate submitted through contract bids gathered by the Corps. The public will be notified on the outcome of these contract bids through an announcement on its public website, <http://www.lrl.usace.army.mil/Missions/Civil-Works/Project-Planning/Indianapolis-North>, as soon as it becomes available.
- C. The wall alignment, in coordination with Butler University, the City of Indianapolis, and Citizens Energy Group, will be designed in such a way that avoids and minimizes the destruction of mature trees across its length, particularly as it relates to the Indianapolis Central Canal and Holcomb Gardens.
- D. The I-wall will display a pattern and color scheme appropriate to the surrounding natural environment and that limits its visual impact. The Corps will provide copies of the preliminary patterned wall design documents to all consulting parties for comment within three months of the execution of this MOA. Review and approval of the final patterned wall design will be accomplished through consultation between the Corps and the IN-SHPO within six months of the execution of this MOA. The public will be notified on the decision through an announcement on its public website, <http://www.lrl.usace.army.mil/Missions/Civil-Works/Project-Planning/Indianapolis-North>.
- E. Pedestrian openings, in coordination with Butler University, the City of Indianapolis, and Citizens Energy Group will be created by the Corps at various locations along the length of the wall to promote accessibility.
- F. The Corps will plant native grasses within 16 feet of each side of the floodwall and other vegetation (bushes and trees) outside of the 32 foot zone of the floodwall. Review and approval of the vegetation plan will be accomplished through consultation between the Corps and the IN-SHPO within six months of the execution of this MOA. The public will be notified on the decision through an announcement on its public website, <http://www.lrl.usace.army.mil/Missions/Civil-Works/Project-Planning/Indianapolis-North>.
- G. The Corps will realign and connect the portion of the canal towpath affected by the gate structure.
- H. The ground disturbance created by the construction of the gate structure and canal tow path will be archaeologically monitored and documented by an archaeologist who meets

the Secretary of Interior's Professional Qualification Standards (36 CFR Part 61) with a plan approved by the Corps and IN SHPO.

- I. The Corps will produce a book on the Indianapolis Central Canal and Holcomb Gardens. The book will be produced by a historian who meets the Secretary of Interior's Professional Qualification Standards (36 CFR Part 61). Prior to publication the Corps will provide a draft manuscript to the IN-SHPO for review. Consulting parties will cooperate with the Corps and IN SHPO making recommendations and revisions of the book as needed. Upon publication the Corps will provide appropriate distribution of the book to libraries, historical organizations and other public repositories in Indianapolis, Indiana. The book will contain, at minimum, the same level of information, photographs, descriptions, narratives, and historic analysis that would sufficient for a nomination to the National Register of Historic Places. A minimum of 100 books will be published and distributed within 36 months of the execution of this MOA.
- J. The Corps will produce a pamphlet on the Indianapolis Central Canal. The pamphlet will be a condensed version of the contents of the book. The Corps will provide a draft to the IN-SHPO for review. Consulting parties will cooperate with the Corps and IN SHPO and make recommendations and revisions of the pamphlet. Upon publication the pamphlet will be made available for distribution to the public through the Indianapolis Department of Public Works and local public libraries. A minimum of 500 pamphlets will be printed and distributed within 36 months of the execution of this MOA.
- K. The Corps will cause the analysis and report to be completed of the 1995 Phase II archaeological testing of significance at 12MA630, 12MA631, and the Formal Garden Site, and submit to the IN SHPO. The analysis and report will be completed within 36 months of the execution of this MOA.

## **II. DURATION**

This MOA will be null and void if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the Corps may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Article VI below.

## **III. POST-REVIEW DISCOVERIES**

If additional historic properties determined eligible for listing to the NRHP are discovered, or unanticipated effects are found, during the implementation of the project the Corps shall implement consultation in accordance with 36 C.F.R. § 800.13 (b), Post-Review Discovery.

## **IV. MONITORING AND REPORTING**

Each year following the execution of this MOA until it expires or is terminated, the Corps shall provide all parties to this MOA and the ACHP a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems

encountered, and any disputes and objections received in the Corps' efforts to carry out the terms of this MOA.

## **V. DISPUTE RESOLUTION**

Subject to Article VIII, below, should any signatory to this MOA object at any time to any of the actions proposed or the manner in which the terms of this MOA are implemented, the Corps shall consult with such party to resolve the objection. If the Corps determines that such objection cannot be resolved, the Corps will:

- A. Forward all documentation relevant to the dispute, including the Corps' proposed resolution, to the ACHP. The ACHP shall provide the Corps with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Corps shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Corps will then proceed according to its final decision.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, the Corps may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Corps shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.
- C. The Corps' responsibility to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

## **VI. AMENDMENTS**

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

## **VII. ANTI-DEFICIENCY PROVISION**

All obligations on the part of the Corps under this MOA shall be subject to the appropriation, availability and allocation of sufficient funds to the Corps for such purposes.

## **VIII. TERMINATION**

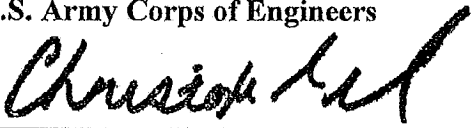
If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Article VI, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Corps must either (a) execute an MOA pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Corps shall notify the signatories as to the course of action it will pursue.

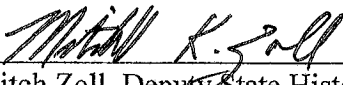
Execution of this MOA by the Corps, IN SHPO, and ACHP, and implementation of its terms evidence that the Corps has taken into account the effects of this undertaking on historic properties and afforded the ACHP an opportunity to comment.

**SIGNATORIES:**


**U.S. Army Corps of Engineers**

 Date 24 Jan 2017  
Christopher G. Beck, Colonel, Louisville District Commander

**Indiana Department of Natural Resources**

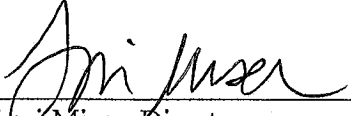
 Date January 30, 2017  
Mitch Zoll, Deputy State Historic Preservation Officer

**Advisory Council on Historic Preservation**

 Date 2/15/17  
John M. Fowler, Executive Director

**INVITED:**

**The City of Indianapolis, Department of Public Works**

 Date 2.7.17  
Lori Miser, Director

**CONCUR:**

**Butler University**

\_\_\_\_\_  
James M. Danko, President

**Citizen's Energy Group**

\_\_\_\_ Date \_\_\_\_\_  
Jeffery Harrison, President

**Indiana Landmarks**

\_\_\_\_ Date \_\_\_\_\_  
Marsh Davis, President

**Canal Society of Indiana**

\_\_\_\_ Date \_\_\_\_\_  
Chuck Huppert, President

**Butler-Tarkington Neighborhood Association**

\_\_\_\_ Date \_\_\_\_\_  
Clark Kirkman, President

**Town of Rocky Ripple**

\_\_\_\_ Date \_\_\_\_\_  
Carla Gaff-Clark

**Residents:**

\_\_\_\_ Date \_\_\_\_\_  
Mr. Eric Baiz

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. & Mrs. John Boggs

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Robert Catus

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Dennis Faulkenberg

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. George Fleetwood

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Margaret Frericks

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Sue Grizzell

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Catherine Hamaker

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Andrew Hein

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Chris Henderson

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Lisa Herber

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Emma Loveland

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Stephen J. Maillet

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Dianne Raynon

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. Alex Smith

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. and Mrs. Martin Truesdell

\_\_\_\_\_ Date \_\_\_\_\_  
Ms. Carolyn Webster

\_\_\_\_\_ Date \_\_\_\_\_  
Mr. & Mrs. Kevin Zimmerman

Figure 1. Location of the Project and Historic Properties.

